IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

Crl.MC.No. 3315 of 2007()

CC.402/2007 of JUDL.MAGISTRATE OF FIRST CLASS, KAYAMKULAM

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PETITIONER: COMPLAINANT & ACCUSED:

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1. MINI SATHEES, THOTTATHIL HOUSE,
   NANGIARKULANGARA P.O., ALAPPUZHA DISTRICT.

2. T.S.SATHEES, THOTTATHIL HOUSE,
   NANGIARKULANGARA P.O., ALAPPUZHA DISTRICT.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS: STATE:

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1. STATE OF KERALA REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
   KAYAMKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.3315 Of 2007

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Dated this the 1st day of November, 2007

ORDER

The petitioners are the accused and the de facto complainant respectively in C.C.No. 402/2007 pending before the learned Magistrate and the offence alleged is the one punishable under Section 498A I.P.C- matrimonial cruelty of the culpable variety. The petitioners have now come before this court together to report to this Court that the disputes between them have been settled amicably. They have resumed cohabitation in pursuance of Annexure B agreement. In these circumstances, they jointly pray that the settlement and composition may be accepted and premature termination of the proceedings may be directed. They having settled their disputes and having resumed cohabitation and the 1st petitioner/ de facto complainant having compounded the offence allegedly committed by the 2nd petitioner, continuance of the criminal prosecution is an avoidable irritant in the relationship between the parties. It is hence prayed that premature termination of the prosecution may be brought about

by invoking the powers under Section 482 Cr.P.C.

2. The learned counsel who appears for both petitioners submits that the matter has been settled harmoniously between the spouses. I am satisfied that there has been genuine and voluntary settlement and composition. If legally permissible, I am satisfied that the composition can be accepted and premature termination of the proceedings can be directed.

3. However, the offence under Section 498A I.P.C is not compoundable as per the stipulations under Sec.320 Cr.P.C. The learned counsel, in these circumstances, rightly relies on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that interest of justice may at times transcend the interests of mere law and on such occasions, the stipulations of Section 320 Cr.P.C. cannot be reckoned a fetter on the width, sweep and amplitude of the powers under Section 482 Cr.P.C.

4. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C as enabled by the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can and

ought to be invoked to bring to premature termination the proceedings which is now continuing.

5. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.402/2007 pending before the Judicial First Class Magistrate Court, Kayamkulam against the 2nd petitioner under Section 498A is hereby quashed.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE